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July 5, 2018

VIA ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *Ex Parte* Communication of the American Cable Association; Amendment of Part 11 of the Commission's Rules Regarding the Emergency Alert System, PS Docket No. 15-94; Wireless Emergency Alerts, PS Docket No. 15-91.

Dear Ms. Dortch:

On July 3, 2018, the undersigned and Ross Lieberman, Senior Vice President of Government Affairs, American Cable Association (ACA), met by telephone with Zenji Nakazawa, Public Safety and Consumer Protection Advisor to Federal Communications Commission (Commission) Chairman Ajit Pai, to discuss matters in the above-captioned proceeding. The undersigned discussed similar matters by telephone on July 2, 2018, with Gregory Cooke, Deputy Chief, Policy and Licensing Division, Public Safety and Homeland Security Bureau; on July 3, 2018, with Will Adams, Legal Advisor to Commissioner Brendan Carr; and on July 5, 2018, with Travis Litman, Chief of Staff and Senior Legal Advisor to Commissioner Jessica Rosenworcel.

ACA's small and medium-sized cable operator members, who typically have a significant local presence in their service territories, share the Commission's interest in an effective Emergency Alert System (EAS). With customers who are employees, family members, and friends, ACA members want their subscribers to receive alerts when actual emergencies arise. With regard to the draft Report and Order, these operators recognize that regular testing of EAS equipment is essential. For these reasons, ACA applauds the Commission for adopting rules that would facilitate more effective public safety tests and exercises using the EAS, and for acknowledging that these measures will help both alert initiators and EAS participants.¹

¹ See *Amendment of Part 11 of the Commission's Rules Regarding the Emergency Alert System* et al., PS Docket No. 15-94 et al., Circulation Draft Report and Order and Further Notice of Proposed Rulemaking, FCCCIRC1807-04, ¶¶ 4 (rel. June 21, 2018) ("The testing rules we adopt today will promote greater proficiency in the use of EAS, both by EAS alert initiators and EAS Participants . . .").

In each of the meetings discussed above, ACA explained that in order for EAS participants, including small and medium-sized cable operators, to benefit from live code tests, these participants must be given sufficient notice of such tests, and it shared suggestions on the draft rule codifying an operational framework for EAS live code tests.² ACA expressed agreement with NCTA's proposal that EAS participants be given sufficient advance notice of live code tests (e.g., 30 days) to allow for planning and coordination.³ We agree that this modest step would encourage wider participation in live code tests and help minimize disruptive side effects.

In its meetings with Mr. Nakazawa, Mr. Adams and Mr. Litman, ACA suggested further that the Order make clear that authorities conducting live code tests must take steps to notify EAS participants of a planned test *using means reasonably calculated to reach the EAS participants within the geographic scope of the test*.⁴ Such steps should include appropriate efforts to identify and obtain contact information from EAS participants, including small and medium-sized cable operators, that may have limited visibility within State Emergency Communications Committees (SECCs) or other planning bodies.⁵ Moreover, the Commission should work with State and local authorities as appropriate to help these authorities identify and acquire contact information for such participants.⁶ ACA also stands ready to serve as a resource and partner in efforts to make its members aware of any upcoming EAS live code tests.⁷

² See *id.*, ¶¶ 3-8.

³ See Letter from Loretta Polk, Vice President & Deputy General Counsel, NCTA - The Internet & Television Association (NCTA), to Marlene H. Dortch, Secretary, FCC, PS Docket Nos., 15-94, 15-91 at 2 (filed July 3, 2018). ACA also expressed agreement with NCTA's concerns regarding the technical limitations of the legacy EAS system in carrying out live code tests. See *id.* at 1-2.

⁴ ACA noted that posting a notice of an upcoming test on a website with the expectation that EAS participants in the area of the test would somehow learn of the posting, or regularly check the website to determine whether a test might be upcoming, should not alone be considered sufficient to meet this notice standard.

⁵ For instance, alert initiators may consult the FCC's COALS database to identify cable systems operating within a particular geographical area and collect contact information: <https://apps.fcc.gov/coals/forms/search/cableSearchNf.cfm>. Additional relevant information may be found in cable operators' public inspection files, available on the FCC website: <https://publicfiles.fcc.gov/>.

⁶ For instance, the Commission could share guidance with state and local authorities based on its experience conducting outreach to EAS participants in preparation for Nationwide EAS Tests. As a longer-term step, the Commission should encourage SECCs to develop and maintain up-to-date statewide lists of EAS Participants and include these in their State EAS Plans as a resource that State and local authorities can use in contacting EAS participants.

⁷ ACA represents approximately 750 operators, who provide EAS alerts to viewers in communities throughout the nation. ACA would welcome the opportunity to assist alert initiators and SECCs with outreach to our members regarding EAS live code tests. ACA recognizes that state cable associations are often represented on SECCs, but the small and medium-sized cable operators that ACA represents are not always members of these associations such that they would receive notices these associations may provide to their members about planned tests.

This letter is being filed electronically pursuant to section 1.1206 of the Commission's rules.
Please address to the undersigned any questions regarding this filing.

Sincerely,

A handwritten signature in blue ink, appearing to read 'B. Hurley', with a stylized flourish at the end.

Brian Hurley

cc: Zenji Nakazawa
Will Adams
Travis Litman
Gregory Cooke